



Position Statement

MAEAP Bills: SBs 122-123 & HBs 4212-4213

Sierra Club is OPPOSED to this legislation and we urge lawmakers to vote NO.

Issue Summary

The Michigan Agriculture Environmental Assurance Program (MAEAP) is a voluntary pollution prevention program that the Farm Bureau and others want codified in law. While many components of MAEAP could have value for farmers and Michigan's environment, **these bills weaken environmental and public health protections related to pollution coming from livestock facilities. A number of provisions in the bills violate the Clean Water Act and put Michigan's delegated authority at risk.**

As an incentive to participate in MAEAP, the legislation gives certain livestock facilities a "free pass to pollute" by: redefining animal waste as "nonpoint source" pollution; by defining many rainfall events as "Acts of God," and by exempting polluting facilities from compliance activities and fines that encourage and help them meet the standards in state and federal law. Details of problematic components are on page 2.

Sierra Club Perspective

For nearly two decades, Michigan experienced many severe water pollution events resulting from intentional or accidental discharges of animal sewage from livestock facilities. After USEPA began steps to take away Michigan's authority over water quality regulation in 2002, the state began to comply with the federal Clean Water Act, including requiring water pollution permits for large CAFOs and some smaller livestock operations with recurring illegal discharges.

Since then, the DEQ has worked hard to help these facilities come into compliance with state and federal clean water laws. The DEQ is currently working to resolve the causes of over 400 illegal discharges from CAFOs without writing citations or issuing fines. As a result of the DEQ's efforts, and those of the livestock facility owners, there has been a significant reduction in severe pollution events. While there are still significant problems with air pollution and groundwater contamination from livestock facilities, Michigan's surface waters are cleaner. This package of bills moves Michigan backward and once again lays the foundation to allow livestock facilities to pollute Michigan's waters without penalty.

MAEAP has value as an educational program, and the Sierra Club supports farmers' participation in the program. However, the voluntary guidelines for livestock operations are far weaker than state and federal law, and inadequate to prevent pollution. It makes little sense for a livestock facility to spend the \$25,000 - \$100,000 to become MAEAP verified if the program doesn't even satisfy minimum legal standards.

If the Farm Bureau wants to encourage all farms to become MAEAP verified, these bills sadly miss the mark. A Free Pass to Pollute for livestock facilities is of no use to the vast majority of Michigan farmers, yet puts Michigan's waters and public health at risk.

Sierra Club would like to be able to support a bill that encourages MAEAP participation. But, not at the expense of Michigan's water quality.

*Please contact the Sierra Club Michigan Chapter office at (517) 484-2372 for more information.
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Objectionable Components

HB 4212

- Replaces the Groundwater Advisory Council with the Environmental Assurance Advisory Council. There are no representatives on the council who are experts or regulators in air, ground or surface water quality. The representative from the Department of Public Health has been removed. (The American Public Health Association and the Michigan State Medical Society have both passed resolutions calling for a moratorium on animal factories due to their inherent public health impacts.)
- Makes it possible to appoint a “conservation” representative, rather than an “environmental” representative on the Council. Conservation organizations do not have expertise in agricultural pollution or water quality.
- Eliminates the prioritization of fundable projects based on the level of contaminants found in the soil or water through water monitoring. Rather, the bills allow public funds to be used for the promotion of voluntary water monitoring by farms, the results of which are exempt from FOIA. If public funds are used to test water, the results must be public.
- Requires the DEQ to enter into an MOU with the Department of Agriculture which allows the MI Department of Agriculture (MDA) to help determine enforcement actions against farms that violate state and federal law. MDA is not a regulatory body with authority to implement the Clean Water Act.

HB 4213:

- Exempts polluting livestock facilities from civil fines – as long as the operator reports the discharge and takes unspecified actions to correct the condition.
- Exempts MAEAP farms from meeting Total Maximum Daily Load (TMDL) requirements to address nonpoint source pollution in impaired waterways – even if the farm is the *reason* for the impairment.
- Redefines pollution discharges from MAEAP verified farms as “nonpoint” discharges, even if the source of the pollution, such as animal sewage, was from a “point” source. This provision would allow polluters to sidestep the enforcement process designed to bring them into compliance with state and federal law. This provision violates the federal Clean Water Act.
- Exempts from enforcement non-permitted livestock facilities that pollute during many modest, half-inch rainfall events (which occur frequently in Michigan) by defining a half-inch rainfall as an “Act of God.” The definition does not specify if the “Act of God” rainfall occurs in 15 minutes (a true gully-washer) or over a full day (a typical rainfall amount). This provision could exempt the vast majority of pollution discharges from unpermitted livestock facilities from compliance activities and violates the federal Clean Water Act. (Currently, the Clean Water Act provides exemptions for polluters during rainfalls of approximately 5 inches – or 24 hour, 25 year rain events – but only if there was no impact on water quality.)